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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/691,699 | 10/24/2003 | Antonio Belluschi | APV31659 | 6781 |

7590 12/01/2005
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| EXAMINER |
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SINGH, SUNIL

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| ART UNIT | PAPER NUMBER |
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3673

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,699

Applicant(s)

BELLUSCHI, ANTONIO

Examiner

Sunil Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,7-9,16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,10-15,17,18 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of office action mailed 8/29/05 requiring a restriction in the reply filed on 9/14/05 is acknowledged. The traversal is on the ground(s) that two office actions were previously done and is inappropriate as this stage of prosecution. This is not found persuasive because a restriction requirement is not based on the stage of the prosecution history, but rather on patentable distinct inventions. Applicant is entitled to one invention per patent. The requirement is still deemed proper and is therefore made FINAL. Claims 2-3, 7-9, 16, 19 are withdrawn for consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 "said command members" lack clear antecedent basis.

Claim 14 "said hydraulic actuator" lacks clear antecedent basis.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,4-6,10-14,17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al. (US 4510750) in view of either Koopmans or Plater (US 4727718, 4508281).

Izumi et al. disclose an apparatus having a hydraulic circuit comprising:

a variable delivery feed pump (2) for pumping oil through the hydraulic circuit,
a motor (3), hydraulically connected to said feed pump, detection means (17) for measuring the pressure of the oil inside said hydraulic circuit and comparing the measured pressure with a pre-determined pressure value (col. 3 line 38, col. 6 line 25) at least one command member (2a, Figs. 1,5,9) of said feed pump which controls delivery of said feed pump, and valve means (10,12,13, 14,33, 43), connected to said detection means, and able to modify operation of said hydraulic circuit by acting on said at least one command member of said feed pump which controls delivery of the feed pump to reduce (see abstract, line 21) the hydraulic delivery of said feed pump in the event that the pressure measured exceeds said pre-determined pressure value. A pre-loading pump (6). The pump (2) is reversible (see col. 5 line 26+) and connected to motor (3) by two pipes (5a,5b). Limit valves (8a,b). Izumi et al. discloses the invention substantially as claimed. However, Izumi et al. is silent about his apparatus being used

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to lay cables. Further, Izumi et al. is silent about his command member being connected to an actuator balanced by elastic means in a chamber. Koopmans and Plater both teach apparatus to lay cables and command members being connected to actuators balanced by elastic means (31,75) respectively. It would have been considered obvious to one of ordinary skill in the art to modify Izumi et al. to use his apparatus to lay cable and to connect the command member to an actuator balanced by elastic means in a chamber as taught by either Koopmans or Plater since such a modification gives the apparatus disclosed by Izumi et al. additional use and since a command member connected to an actuator balanced by elastic means is notoriously old and conventional.

With regards to claims 12, 17 and 18, it would have been considered obvious to provide multiple apparatuses as disclosed by Izumi et al. (as modified above), since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. Claims 1,4-6,10-14,17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al. (US 4528813) in view of either Koopmans or Plater (US 4727718, 4508281).

Izumi et al. disclose an apparatus having a hydraulic circuit comprising:
a variable delivery feed pump (2) for pumping oil through the hydraulic circuit,

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a motor (3), hydraulically connected to said feed pump, detection means (15a,b) for measuring the pressure of the oil inside said hydraulic circuit and comparing the measured pressure with a pre-determined pressure value, at least one command member (2a, Fig. 1) of said feed pump which controls delivery of said feed pump, and valve means (10,12,16-18), connected to said detection means, and able to modify operation of said hydraulic circuit by acting on said at least one command member of said feed pump which controls delivery of the feed pump to reduce the hydraulic delivery of said feed pump in the event that the pressure measured exceeds said pre-determined pressure value. A pre-loading pump (6). The pump (2) is reversible and connected to motor (3) by two pipes (5a,5b). Limit valves (8a,b). Izumi et al. discloses the invention substantially as claimed. However, Izumi et al. is silent about his apparatus being used to lay cables. Further, Izumi et al. is silent about his command member being connected to an actuator balanced by elastic means in a chamber. Koopmans and Plater both teach apparatus to lay cables and command members being connected to actuators balanced by elastic means (31,75) respectively. It would have been considered obvious to one of ordinary skill in the art to modify Izumi et al. to use his apparatus to lay cable and to connect the command member to an actuator balanced by elastic means in a chamber as taught by either Koopmans or Plater since such a modification gives the apparatus disclosed by Izumi et al. additional use and since a command member connected to an actuator balanced by elastic means is notoriously old and conventional.

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With regards to claims 12, 17 and 18, it would have been considered obvious to provide multiple apparatuses as disclosed by Izumi et al. (as modified above), since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

7. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



SS



11/24/05

SUNIL SINGH
PRIMARY PATENT EXAMINER